

FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE LICENSE
TO PRACTICE PHARMACY OF

HARRY N. KNUTKOWSKI, R.Ph.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9112041PHM

The State of Wisconsin, Pharmacy Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Pharmacy Examining Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 11th day of February, 1992.

Thomas M. Grogan R.Ph.

State of Wisconsin
Before the Pharmacy Examining Board

In the Matter of the License	:	
to Practice Pharmacy of	:	Proposed Decision
	:	LS 9112041 PHM
Harry N. Knutkowski, R. Ph.,	:	
Respondent.	:	

The parties to this proceeding for purposes of s. 227.53, Stats, are:

Harry N. Knutkowski
1816 East Kane Place
Milwaukee WI 53202

Pharmacy Examining Board
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

This matter was commenced as a Class 1 proceeding upon Mr. Knutkowski's request for a hearing on the Pharmacy Board's denial of his petition for reinstatement of his license to practice pharmacy.

The Division of Enforcement appeared in this proceeding by Attorney Robert Ganch; Mr. Knutkowski is represented by Attorney Patricia Fricker of the Law Offices of Gerald Boyle, 1124 West Wells Street, Milwaukee, Wisconsin 53233.

The hearing in this matter was scheduled for December 20, 1991. Prior to the hearing, Ms. Fricker and Mr. Ganch both notified the Administrative Law Judge that Mr. Knutkowski was withdrawing his request for a hearing on the denial of the petition for reinstatement of his license.

The Administrative Law Judge recommends that the Pharmacy Examining Board adopt the following Findings of Fact, Conclusions of Law, Order and Opinion as its Final Decision in this matter.

FINDINGS OF FACT

1. Harry N. Knutkowski was issued a license to practice pharmacy in the state of Wisconsin on June 29, 1976.

2. On October 9, 1990, the Pharmacy Examining Board placed certain limitations on Mr. Knutkowski's license to practice pharmacy, and suspended the license for a period of not less than five years, subject to successive three month stays of the suspension upon petition by Mr. Knutkowski and compliance with the conditions and limitations imposed on the license.

3. On May 16, 1991, the Board revoked the Stay of Suspension and reinstated the suspension of the license, for failure to comply with certain of the limitations and conditions previously imposed on the license.

4. Mr. Knutkowski petitioned the Board for reinstatement of the stay of suspension on May 30, 1991.

5. On June 13, 1991, the Board denied the petition for reinstatement of the stay.

6. On December 4, 1991, the Division of Enforcement filed a notice of hearing in this matter, with the issue being whether the Board should reverse or modify its decision denying the petition for reinstatement previously filed by Mr. Knutkowski.

7. On December 13, 1991, Mr. Knutkowski, through his counsel Ms. Fricker, withdrew his request for a hearing on his petition for reinstatement of his license to practice pharmacy.

CONCLUSIONS OF LAW

1. The Pharmacy Examining Board has jurisdiction in this matter pursuant to Ch. 450, Stats., s. 227.44, Stats., and Ch. RL 1, Wis. Admin. Code.

2. Mr. Knutkowski has the right to forgo a hearing at which he would have the opportunity to prove that the Pharmacy Examining Board was in error in denying his petition for reinstatement of his license to practice pharmacy.

ORDER

NOW, THEREFORE, IT IS ORDERED that Mr. Knutkowski's petition for reinstatement of his license to practice pharmacy is denied.

OPINION

It is the right of every person aggrieved by a decision of an administrative agency to petition for review of the decision, and of every person who is denied a license to practice pharmacy to request a hearing at

which to challenge the denial. At the same time, it is entirely up to the person who is denied a license to practice to decide whether or not to challenge that denial.

Mr. Knutkowski initially challenged the denial of his petition for reinstatement. For whatever reason, he has now decided to withdraw his request for a hearing on the denial. He cannot be compelled to proceed with an action he does not wish to pursue. As he no longer wishes to challenge the Order of the Pharmacy Examining Board denying his request for reinstatement, his petition for reinstatement is denied.

Dated this ¹⁹~~18~~th day of December, 1991.

James E. Polewski
James E. Polewski
Administrative Law Judge

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Pharmacy Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Pharmacy Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Pharmacy Examining Board.

The date of mailing of this decision is February 13, 1992